

## PUBLIC DEFENDER SERVICES COMMISSION

### *SPECIAL PUBLIC DEFENDER QUALIFICATIONS & TRAINING*

The following qualifications and training requirements are established for attorneys serving as Special Public Defenders:

1. Attorneys approved by the Chief Public Defender or the Standing Committee on Special Public Defenders to receive appointments as Special Public Defenders on a contractual or non-contractual basis in the various courts shall meet the minimum qualifications established by the Commission for representation in Geographical Area courts, Judicial District courts, juvenile delinquency matters, appeals, habeas corpus matters, and capital felony cases, as set forth in the attached Appendices.
2. Prior to receiving appointments, a Special Public Defender shall be required to participate in an SPD Basic Orientation course, which will familiarize the attorney with the duties and responsibilities of a Special Public Defender, address basic criminal practice and procedure issues, and review the Commission's *Guidelines on Indigent Defense*. Participation in said course may be waived by the Chief Public Defender or the Director of Special Public Defenders on the basis of prior experience as a Special Public Defender.
3. The Commission shall make ongoing professional education and training programs available to Special Public Defenders, including but not limited to the following:
  - a) Regularly scheduled professional education and training programs presented by the Training Unit of the Office of Chief Public Defender on various topics of criminal law and procedure, as well as other topics relevant to the representation of clients in criminal cases.
  - b) A trial advocacy training program for special public defenders conducted annually by the Director of Special Public Defenders.
  - c) A mentor program, through which experienced criminal defense attorneys are made available on a voluntary basis to provide advice and assistance to special public defenders upon request.

4. All Special Public Defender Contracts shall contain a provision requiring Special Public Defenders to certify annually that they have completed six hours of professional education and training, including public defender, bar and professional association, regional, or national training events and seminars, and taped or multimedia programs.
5. All Special Public Defender contracts shall contain a provision requiring Special Public Defenders to be familiar with the Public Defender Services Commission's *Guidelines On Indigent Defense*, and to observe said guidelines in accordance with their "Purpose", as set forth at p. 1.

*Adopted June 15, 1999*

***PUBLIC DEFENDER SERVICES COMMISSION***

**Standards For The Appointment Of Special Public Defenders  
In Geographical Area Courts**

Attorneys who are appointed as a special public defender in a criminal matter in Geographical Area (GA) courts should be attorneys who satisfy the following criteria:

1. Are experienced in the field of criminal defense and/or possess sufficient education and training to enable them to adequately represent clients in criminal cases; and,
2. Have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to the representation of misdemeanor and felony cases;
3. Are familiar with diversionary programs and alternatives to incarceration that are available; and,
4. For Class B felony cases, meet the criteria set forth in the Standards For The Appointment Of Special Public Defenders In Judicial District Courts.

The Chief Public Defender may consider any other comparable relevant experience or qualifications that demonstrate an ability to adequately represent clients in criminal cases. Such qualifications or experience may be substituted in lieu of any of the criteria set forth above.

*Adopted June 15, 1999*

## ***PUBLIC DEFENDER SERVICES COMMISSION***

### **Standards For The Appointment Of Special Public Defenders In Judicial District Courts**

Attorneys who are appointed as a special public defender in a criminal matter in the Judicial District (JD) courts should be attorneys who satisfy the following criteria:

1. Are experienced and active trial practitioners with at least two years litigation experience in the field of criminal defense; and,
2. Have prior experience as lead or sole counsel in no fewer than two criminal jury or court trials of class D or greater felony cases or four criminal jury or court trials of misdemeanor cases, which cases were tried to verdict or a hung jury, or at least one jury or court trial of class D or greater felony cases and two criminal jury or court trials of misdemeanor cases which were tried to verdict or a hung jury; and,
3. Are familiar with and experienced in the utilization of expert witnesses and evidence, including, but not limited to, psychiatric and forensic evidence; and,
4. Have specialized training in jury trials or have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to serious felony cases.

The Chief Public Defender may consider any other comparable relevant experience or qualifications that demonstrate an ability to adequately represent clients in serious felony cases. Such qualifications or experience may be substituted in lieu of any of the criteria set forth above.

*Adopted June 15, 1999*

## ***PUBLIC DEFENDER SERVICES COMMISSION***

### **Standards For The Appointment of Special Public Defenders In Juvenile Matters**

Attorneys who are appointed as a special public defender in a delinquency proceeding at the Superior Court for Juvenile Matters should be attorneys who satisfy the following criteria:

1. Are experienced and active practitioners with experience in the field of criminal defense; and,
2. Are familiar with programs available at the juvenile court level for residential and community based treatment including but not limited to psychiatric and/or substance abuse treatment;
3. Have specialized training in the representation of juveniles or have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to juvenile cases; and,
4. For Serious Juvenile Offenses (SJO), have prior experience as lead or sole counsel in no fewer than two trials of juvenile matters, which cases were tried to judgement, or meet the criteria set forth in Paragraph 2 of the Standards For The Appointment Of Special Public Defenders In Judicial District Courts.

The Chief Public Defender may consider any other comparable relevant experience or qualifications that demonstrate an ability to adequately represent clients in juvenile courts. Such qualifications or experience may be substituted in lieu of any of the criteria set forth above.

*Adopted June 15, 1999*

## ***PUBLIC DEFENDER SERVICES COMMISSION***

### **Standards For The Appointment Of Special Public Defenders For Appeals**

Attorneys who are appointed as a special public defender in a criminal appellate matter should be attorneys who satisfy the following criteria:

1. Are experienced and active practitioners with litigation or appellate experience in the field of criminal defense;
2. Possess extensive research and writing skills and the ability to identify appellate issues including, but not limited to, state and federal constitutional issues, criminal procedural issues and evidentiary issues; and,
3. Have specialized training in appellate brief writing, agree to read and study appellate training materials provided by the Legal Services Unit of the Office of Chief Public Defender, or have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to appeal cases.

The Chief Public Defender may consider any other comparable relevant experience or qualifications that demonstrate an ability to adequately represent clients on appeal. Such qualifications or experience may be substituted in lieu of any of the criteria set forth above.

*Adopted June 15, 1999*

## ***PUBLIC DEFENDER SERVICES COMMISSION***

### **Standards For The Appointment Of Special Public Defenders In Habeas Corpus Cases**

Attorneys who are appointed as a special public defender in a habeas corpus matter should be attorneys who satisfy the following criteria:

1. Are experienced and active practitioners with at least two years trial or appellate experience in the field of criminal defense;
2. Have prior experience in the representation of habeas petitioners or prior experience as lead or sole counsel in no fewer than two jury or court trials or two appeals;
3. Are familiar with the civil rules of procedure which govern habeas corpus and the applicable standard for the effective assistance of counsel in criminal matters;
4. Are familiar with and experienced in the utilization of expert witnesses and evidence; and,
5. Have specialized training in the representation of clients in habeas corpus matters, agree to read and study training materials provided by the Habeas Corpus Unit of the Office of Chief Public Defender, or have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to habeas corpus cases.

The Chief Public Defender may consider any other comparable relevant experience or qualifications that demonstrate an ability to adequately represent clients in habeas corpus matters. Such qualifications or experience may be substituted in lieu of any of the criteria set forth above.

*Adopted June 15, 1999*

## PUBLIC DEFENDER SERVICES COMMISSION

### QUALIFICATIONS OF ATTORNEYS TO BE APPOINTED AS SPECIAL PUBLIC DEFENDERS IN CAPITAL FELONY CASES

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#### Qualifications

Attorneys who are appointed as lead counsel in capital cases should be attorneys who satisfy the following criteria:

1. Are experienced and active trial practitioners with at least seven years litigation experience in the field of criminal defense; and
2. Have prior experience as lead or sole counsel in no fewer than nine criminal jury trials of serious and complex cases which were tried to verdict or hung jury. If the attorney has experience as lead or co-counsel in a capital case that was tried through the sentencing phase then seven, not nine, prior jury trials are required. Of the nine jury trials which were tried to completion, the attorney should have been lead or sole counsel in at least three cases in which the charge was murder or felony murder; or alternatively, of the nine jury trials, at least one was a murder or felony murder trial and an additional five were felony jury trials of C degree felonies or greater; for attorneys with prior capital felony trial experience one additional felony trial of the seven felony trials was for murder or felony murder; or six were felony jury and court trials of C degree felonies or greater; and
3. Are familiar with and experienced in the utilization of expert witnesses and evidence, including, but not limited to, psychiatric and forensic evidence; and
4. Have completed a certified training program in the litigation of capital felony defense; or agree to read and study capital felony defense trial training and mitigation preparation and presentation materials compiled by and provided by the Trial Services Unit of the Office of the Chief Public Defender.
5. Have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to capital cases.



Attorneys who are appointed as co-counsel in capital cases should be attorneys who qualify as lead counsel or meet the following criteria:

1. Are experienced and active trial practitioners with at least four years litigation experience in the field of criminal defense; and
2. Have prior experience as lead counsel or co-counsel in no fewer than four criminal jury trials of class C or greater felony cases which were tried to verdict or hung jury, including at least one trial in which the charge was murder or felony murder; or have participated as lead or co-counsel in one prior capital felony jury trial tried to completion through the sentencing phase; and
3. Have completed a certified training program in the litigation of capital felony defense; or agree to read and study capital felony defense trial training and mitigation preparation and presentation materials compiled by and provided by the Trial Services Unit of the Office of the Chief Public Defender.
4. Have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to capital cases.

An attorney who does not meet these requirements may be appointed or co-counsel if the attorney demonstrated to the Commission that he or she can provide competent representation. The Commission may consider the following:

- a. Experience in the trial of criminal cases;
- b. Specialized post-graduate training in jury trials;
- c. Specialized training in the defense of persons accused of capital crimes;
- d. Any other relevant considerations.

